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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Jon M. Bishay  
Application No. : 09/928,044 Confirmation No.: 7172  
Filed : August 11, 2001  
For : **METHOD AND APPARATUS FOR DEPLOYING A  
PERCUTANEOUS PROBE**

Examiner : George Robert Evanisko  
Art Unit : 3726  
Docket No. : 33734-8001US2  
Date : April 25, 2003

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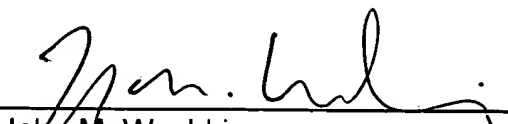
**DECLARATION OF JOHN M. WECHKIN**

I, John M. Wechkin, do hereby declare:

1. The facts set forth in this Declaration are personally known to me and I have first-hand knowledge of such facts.
2. I am an attorney of the law firm of Perkins Coie LLC ("Perkins Coie") at 1201 Third Avenue, Suite 4800, Seattle, WA 98101, which is outside patent counsel for Vertis Neuroscience.
3. I am and have been involved in the filing and prosecution of U.S. Patent Application Serial No. 09/928,044 (the "Application" for the invention entitled **METHOD AND APPARATUS FOR DEPLOYING A PERCUTANEOUS PROBE**," assigned to Vertis Neuroscience.
4. The application was filed on August 11, 2001 along with a Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(i).
5. On August 9, 2002 I filed a PCT application (the "International Application") claiming priority to the Application.

6. On or about August 9, 2002 Perkins Coie employees docketed a reminder for September 23, 2002 to check whether a Request to Rescind Previous Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(ii) had been filed with the USPTO.
7. On September 20, 2002 Melody Almberg, a paralegal at Perkins Coie unintentionally requested that the docketed reminder for September 23, 2002 be removed, without concurrently preparing and filing a Request to Rescind Previous Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(ii).
8. On September 24, 2002 the 45-day period from the filing date of the International Application passed without a Request to Rescind Previous Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(ii) being filed.
9. On April 24, 2003 I became aware of the facts stated in paragraphs (4)-(8) above as a result of an audit of the Perkins Coie file corresponding to the Application.
10. On April 28, 2003 I prepared a Petition to Revive the Application under 37 C.F.R. 1.137(b) along with a Request to Rescind Previous Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(ii).
11. The entire delay in filing the Request to Rescind Previous Nonpublication Request Under 35 U.S.C. 122 (b)(2)(B)(ii) was unintentional.
12. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine, or imprisonment, or both under Section 101 of Title 18 of the United States Code.

Executed this 30<sup>TH</sup> day of April, 2003, in Seattle, Washington.

  
John M. Wechkin